THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.34601 of 1998

ORAL ORDER:

This writ petition is filed being aggrieved by the award made in I.D.No.706 of 1987 dated 28.6.1993 on the file of the first respondent-Labour Court insofar as denying continuity of service and back wages to the petitioner.

It appears, petitioner's services were terminated with retrospective effect from 01.10.1982 by an order dated 31.8.1985. Aggrieved by the same, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the first respondent-Labour Court. It was the case of the petitioner before the Labour Court that no enquiry was conducted nor any final orders were passed and orally his services were terminated with effect from 1.10.1982 and the same is contrary to Section 25-F of the I.D. Act and further, juniors to him are being continued, whereas, his services were terminated.

The respondents resisted the claim of the petitioner stating that the petitioner abandoned from duty from October, 1982. His application dated 21.9.1984 claiming reinstatement was rejected as he had voluntarily given up his job. He did not explain his unauthorized absence properly. An enquiry was ordered and the same was intimated to the petitioner vide letter dated 24.12.1984, but he refused to attend the same. In the enquiry, petitioner was found guilty of unauthorized absence amounting to misconduct and hence his services were terminated vide proceedings dated 31.8.1985 with retrospective effect from 1.10.1982.

The Labour Court, however, came to the conclusion that there was no evidence to show that the petitioner abandoned his service. The enquiry report on which final order of termination passed was not filed. The Enquiry Officer or any other official then working in the Corporation was not

examined to prove the charge of unauthorized absence. In fact, petitioner in his evidence stated that Shanker, Jangaiah and Basha who were co-workers and juniors to him were absorbed in Irrigation Department after the Corporation was abolished. Further, it was noticed by the Labour Court that as per the directions of the Supreme Court, some of the workers in the abolished Corporation were given re-employment in the Irrigation Department. Under those circumstances, the Labour Court directed the respondents to re-employ the petitioner in any of their departments in similar post, however, held that the petitioner is not entitled to back wages and continuity of service.

I am of the opinion that once the Labour Court came to the conclusion that the termination itself was illegal, particularly when it was given with retrospective effect from 1.10.1982 and no enquiry as claimed by the respondents was conducted and no person was examined on its behalf, petitioner ought to have been granted reinstatement with continuity of service. Therefore, I am of the opinion that the award passed by the Labour Court is liable to be modified to the following effect.

> "In the result, the respondents are directed to reinstate the petitioner with continuity of service, but without any back wages and without any attendant benefits".

The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V.RAMULU,
J

Date: 27.4.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.34601 of 1998

27.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.34601 of 1998

Date: 27th April, 2007

Between:

K.R.Unni Krishnan

.. Petitioner

And

Additional Industrial Tribunal-cum-
Additional Labour Court, rep. by its
Presiding Officer, M.J. Road, Hyderabad & others.

.. Respondents